

From: Clemens, Shelley (USAAZ) [mailto: [REDACTED]]
Sent: Thursday, March 10, 2011 7:42 AM
To: Crocker, Richard L; Bartlett, S. Annette (FBI); Nallin, Michael T.
Subject: Firearms cases

Yesterday, we received a directive from the DAG, instructing on DOJ's policy regarding guns going south into Mexico. "We should not design or conduct undercover operations which include guns crossing the border. If we have knowledge that guns are about to cross the border, we must take immediate action to stop the firearms from crossing the border, even if that prematurely terminates or otherwise jeopardizes an investigation." This would include cases where we are working with the Mexican government to have them follow the vehicles once they are in Mexico in order to find the purchaser. If a vehicle is lost in surveillance, take all steps to notify the ports to be on the look out to stop the vehicle/person at the POE.

Please distribute this to your agents to ensure they are clear on this policy.

If you have any questions about this policy, please call me.

[REDACTED]

Thanks

Shelley Clemens
[REDACTED]



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226
www.atf.gov



MEMORANDUM TO: All Special Agents
Office of Field Operations

FROM: Assistant Director
(Field Operations)

SUBJECT: Guidance on Firearms Trafficking Investigations

This memo serves to reinforce the importance of adhering to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and Department of Justice (DOJ) policy on firearms trafficking investigations and to reiterate the DOJ-wide position that component law enforcement agencies must not plan or conduct undercover operations in which firearms are crossing the U.S. border. DOJ guidance further requires that if a law enforcement official has any knowledge that guns are about to cross the border, he/she must take immediate action to prevent that from occurring, even if doing so will jeopardize an investigation.

ATF guidance is contained in the Firearms Enforcement Program Order, ATF O 3310.4B; in the Firearms Trafficking Investigation Guide, ATF P 3317.1; and in the September 2010 document entitled "Project Gunrunner - A Cartel Focused Strategy." ATF O 3310.4B outlines policy and discusses a number of investigative techniques consistent with the DOJ-wide guidance. ATF P 3317.1 contains, among other resources, an investigative checklist for international trafficking-in-arms cases in Section X, as well as a detailed outline of firearms trafficking indicators in Section V. "Project Gunrunner - A Cartel Focused Strategy" notes practical considerations that may require bringing investigations to a conclusion or dictate a change in investigative tactics prior to the identification of persons directly affiliated with drug trafficking organizations. Field Special Agents in Charge are also reminded that they must closely monitor and approve high volume trafficking investigations and must assess the associated risks. Lastly, field divisions should continue to coordinate with the U.S. Attorney's Offices for the districts in which they conduct operations to ensure a mutual understanding of the criteria for both prosecutions and seizures.


Mark R. Chait

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U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

MEMORANDUM

MAR 10 2010

TO: Paul M. O'Brien, Director
Office of Enforcement Operations
Criminal Division

ATTN: Emory Hurley

FROM: Lanny A. Breuer
Assistant Attorney General
Criminal Division

SUBJECT: Authorization for Interception Order Application

This is with regard to your recommendation that an appropriately designated official of the Criminal Division authorize an application to a federal judge of competent jurisdiction for an order under Title 18, United States Code, Section 2518, authorizing for [REDACTED] day period, the interception of wire communications.

[REDACTED]

Arizona, and accessed through international mobile subscriber identity [REDACTED] in connection with an investigation into possible violations of Title 18, United States Code, Sections 371, 554, 922, 924, 1343, and 1956; Title 21, United States Code, Sections 841, 846, 960, and 963; Title 22, United States Code, Section 2778; and Title 31, United States Code, Sections 5324 and 5332.

[REDACTED]

By virtue of the authority vested in the Attorney General of the United States by Section 2516 of Title 18, United States Code, the Attorney General has by Order Number 3055-2009, dated February 26, 2009, designated specific officials in the Criminal Division to authorize applications for court orders authorizing the interception of wire or oral communications. As a duly designated official in the Criminal Division, this power is exercisable by the undersigned. WHEREFORE, acting under this delegated power, the appropriately designated official authorizes the above-described application to be made by any investigative or law enforcement officer of the United States as defined in Section 2510(7) of Title 18, United States Code.

The authorization given is intended to apply not only to the target [REDACTED] listed above, but also to any other [REDACTED]

[REDACTED] within the day period. The authorization is also intended to apply to [REDACTED] referenced above regardless of service provider, and to background conversations intercepted in the vicinity of [REDACTED] while [REDACTED] otherwise in use.

Lanny A. Breuer
Assistant Attorney General
Criminal Division

MAR 10 2010

Date

~~*Lanny A. Breuer*~~

REDACTED
REDACTED
REDACTED

BRIEFING PAPER

**Phoenix Field Division
Phoenix Group VII (Guerrilla/Strike Force)
785115-10-0004
January 8, 2010**

Background

1. This investigation has currently identified more than 20 individual connected straw purchasers. More suspects are being identified as the scope of the investigation expands. The straw-purchase suspects currently identified are associated with one another [REDACTED] [REDACTED] To date (September 2009 – present) this group has purchased in excess of 650 firearms (mainly AK-47 variants) for which they have paid cash totaling more than \$350,000.00.
2. To date there have been five (5) notable seizure events connected with this group, and approximately 53 firearms originally purchased by this group have been recovered. Three of these seizures have been in the Country of Mexico, one recovery in Douglas, AZ, and one recovery in Nogales, AZ. The U.S. recoveries were both believed to be destined for Mexico. It should be noted however that there has been one seizure in the Phoenix area related to the ongoing DEA narcotics trafficking investigation.
3. The seizures referenced above were not from any member of the targeted group of straw purchasers identified in this investigation. Rather, they were from Hispanic individuals (both male and female) whose association with our target group is currently unknown. This is consistent with what ATF agents have observed thus far during surveillance: straw-purchase suspects delivering recently purchased firearms to Hispanic males. Two such transactions were observed to take place at auto shops/auto auctions.
4. At one of the Mexico seizures there were 45 firearms recovered in addition to 500 kilograms of cocaine, 85 pounds of methamphetamine, and over \$2,000,000.00 in U.S. currency. Of the 45 firearms recovered, 14 of those firearms (all AK-47 variants) were originally purchased by this target group. Our investigation has not produced any indication of drug trafficking or financial resources consistent with the seizures listed above.
5. In coordinating with DEA in Phoenix, AZ, [REDACTED] [REDACTED] one or more of our target group to arrange for the delivery of firearms. Surveillance operations are now being coordinated

with information being obtained from the [REDACTED] This is being coordinated out the Phoenix OCDETF Strike Force, of which Phoenix Group VII is a full-time member.

6. [REDACTED]

7. There have been three (3) recorded telephone calls since January 4, 2010, between the most prolific suspected straw-purchaser and the Federal Firearms Licensee (FFL) [REDACTED]. These conversations have been to schedule a future purchase of AK-47 variant rifles. The anticipated purchase is approximately forty (40) rifles.

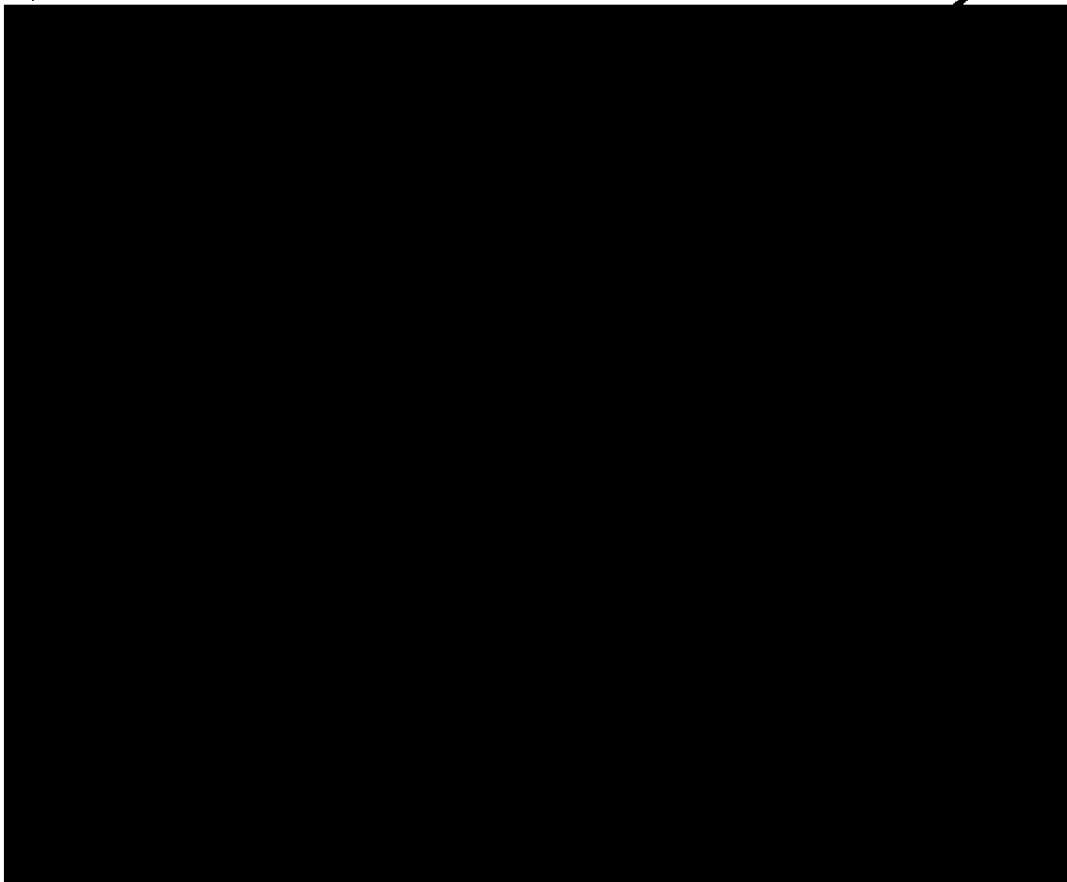
8. On January 5, 2010, ASAC [REDACTED] GS [REDACTED] and case agent SA [REDACTED] met with AUSA Emory Hurley, who is the lead federal prosecutor on this matter. Investigative and prosecution strategies were discussed and a determination was made that there was minimal evidence at this time to support any type of prosecution; therefore, additional firearms purchases should be monitored and additional evidence continued to be gathered. This investigation was briefed to United States Attorney Dennis Burke, who concurs with the assessment of his line prosecutors and fully supports the continuation of this investigation. Furthermore, Phoenix Special Agent in Charge Newell has repeatedly met with USA Burke regarding the on-going status of this investigation and both are in full agreement with the current investigative strategy.

9. [REDACTED]

10. A joint strategy/deconfliction meeting is planned for Friday, January 15, 2010, with representatives from ICE, DEA, and ATF. This investigation, as well as other ongoing investigations, will be briefed to all present. It should be noted that deconfliction in the OCDETF Strike Force is not the issue, rather there are several Arizona ICE offices involved in this investigation due to the location of the firearms seizures and coordination between the various ICE offices has been problematic. Even though ICE has a group at

the OCDETF Strike Force the other ICE offices in Arizona are under different ASACs and that has created a coordination issue amongst all parties involved. Phoenix SAC Newell has previously requested that ICE coordinate all their investigative activity out of the OCDETF Strike Force, of which ICE is a member, in order to eliminate the requirement of the ATF Strike Force to try to coordinate with several different ICE offices. This will be discussed at the January 15 meeting.

Investigative Techniques a/o Efforts Used to Date



Investigative Strategy

12. This investigation is currently being conducted in conjunction with the Phoenix DEA OCDETF strike force. ATF Phoenix VII is the lead investigating enforcement group in the firearms trafficking portion of this investigation. A formal OCDETF proposal is completed and will be presented on January 26, 2009, in furtherance of this investigation. It is unknown at this time what direct connection exists between these straw-purchasers and the drug trafficking organizations (DTOs) of Mexico.

13. Currently our strategy is to allow the transfer of firearms to continue to take place, albeit at a much slower pace, in order to further the investigation and allow for the identification of additional co-conspirators who would continue to operate and illegally traffic firearms to Mexican DTOs which are perpetrating armed violence along the Southwest Border. This all in compliance with ATF 3310.4(b) 148(a)(2). It should be noted that since early December efforts to "slow down" the pace of these firearms purchases have succeeded and will continue but not to the detriment of the larger goal of the investigation. It should also be noted that the pace of firearms procurement by this straw purchasing group from late September to early December, 2009 defied the "normal" pace of procurement by other firearms trafficking groups investigated by this and other field divisions. This "blitz" was extremely out of the ordinary and created a situation where measures had to be enacted in order to slow this pace down in order to perfect a criminal case.

14. The ultimate goal is to secure [REDACTED] to identify and prosecute all co-conspirators of the DTO to include the 20 identified straw purchasers, the facilitators of the distribution cell centered here in Phoenix, the transportation cells taking firearms South, and ultimately to develop and provide prosecutable information to our Mexican law enforcement counterparts for actions. It should be noted that DEA has specifically requested, at the ASAC and SAC level, that ATF continue this investigative strategy in order to not adversely impact their on-going narcotics trafficking investigation, which to date has identified direct ties between their Phoenix and Glendale based targets and the Sinaloa DTO.